

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA,

v.

QUINN A. GOFFIGAN,

Defendant.

CRIMINAL ACTION NO.  
2:16cr34

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

February 26, 2016

BEFORE: THE HONORABLE LAWRENCE R. LEONARD  
United States Magistrate Judge

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE

By: Kevin Hudson  
Assistant United States Attorney  
Counsel for the United States

FEDERAL PUBLIC DEFENDER'S OFFICE

By: Suzanne Katchmar  
Assistant Federal Public Defender  
Counsel for the Defendant

1	(Hearing commenced at 10:12 a.m.)	09:46:2
2	THE CLERK: United States of America versus Quinn A.	09:47:3
3	Goffigan, case number 2:16mj82.	09:47:4
4	Are counsel ready to proceed?	09:47:4
5	MR. HUDSON: Yes, ma'am. The Government is ready.	09:47:4
6	Good morning, Your Honor.	09:47:5
7	THE COURT: Good morning, Mr. Hudson.	09:47:5
8	MS. KATCHMAR: Good morning, Your Honor. Suzanne	09:47:5
9	Katchmar appearing with Mr. Goffigan. We are prepared to	09:47:5
10	proceed on both matters today.	09:48:0
11	THE COURT: All right. Good morning, Ms. Katchmar.	09:48:0
12	I haven't seen you in awhile. You've been busy in other	09:48:0
13	people's courtrooms, I guess.	09:48:1
14	MS. KATCHMAR: That is, but I'm happy to be here.	09:48:1
15	THE COURT: Good. Well, we're here for a	09:48:2
16	preliminary hearing and a detention hearing in the matter of	09:48:2
17	United States versus Quinn Goffigan. So let's start with the	09:48:2
18	preliminary hearing. Ms. Katchmar, your client's ready to go	09:48:2
19	forward.	09:48:3
20	Mr. Hudson, let me hear from you.	09:48:3
21	MR. HUDSON: Yes, sir. And the Government would	09:48:3
22	call Task Force Officer James Thomas to the stand.	09:48:3
23	THE COURT: All right. Agent Thomas, if you'd come	09:48:5
24	forward, please.	09:48:5
25	MS. KATCHMAR: Your Honor, may we have a moment? We	09:49:0

1 are having some technical difficulties here. 09:49:0

2 THE COURT: All right. 09:49:1

3 MS. KATCHMAR: All good. Thank you so much. 09:49:2

4 (Witness was sworn.) 09:49:3

5 JAMES A. THOMAS, called by the Government, having 09:49:3

6 been first duly sworn, was examined and testified as follows: 09:49:3

7 DIRECT EXAMINATION 09:49:3

8 BY MR. HUDSON: 09:49:3

9 Q. Good morning, sir. Will you tell us your name, please. 09:50:0

10 A. Good morning, Your Honor. James Thomas. I am a 09:50:1

11 detective with the City of Virginia Beach Special 09:50:2

12 Investigations Narcotics, also assigned to the DEA drug 09:50:2

13 narcotic task force in Norfolk, Virginia. 09:50:2

14 Q. How long have you been on the DEA task force, sir? 09:50:3

15 A. I've been working with the DEA task force for 09:50:3

16 approximately 11 to 12 years now. I've been on Virginia 09:50:3

17 Beach Police Department going on 26 years. I've been in 09:50:4

18 special investigation, run narcotic investigations, both 09:50:4

19 federal and state, for approximately 22 years now. 09:50:5

20 Q. And are you the primary task force officer assigned to 09:51:0

21 this case? 09:51:1

22 A. Yes, I am. 09:51:1

23 Q. Sir, let me direct your attention to February the 17th of 09:51:1

24 2014. Did there come a time that day that you swore out a 09:51:2

25 complaint, an affidavit against a Quinn Goffigan? 09:51:2

1	A. Yes, I did.	09:51:3
2	Q. And, sir, do you see Mr. Goffigan in the courtroom today?	09:51:3
3	A. I sure do. He is sitting to the left of Ms. Suzanne	09:51:3
4	Katchmar in the orange jumpsuit.	09:51:4
5	Q. And did you prepare an affidavit in connection with this	09:51:4
6	case?	09:51:5
7	A. Yes, I did.	09:51:5
8	Q. Okay. Sir, let me show you what I've marked as	09:51:5
9	Government's Exhibit Number 1.	09:51:5
10	MS. KATCHMAR: I've previously seen it, Your Honor.	09:52:0
11	I have no objection.	09:52:0
12	THE COURT: All right. Thank you, Ms. Katchmar.	09:52:0
13	MS. KATCHMAR: Not to the content and the veracity	09:52:1
14	of it but simply that is the affidavit.	09:52:1
15	THE COURT: I understand.	09:52:1
16	BY MR. HUDSON:	09:52:1
17	Q. And, sir, do you recognize Government's 1?	09:52:1
18	A. Yes, sir, I do. It has my initials on each page and	09:52:2
19	signature on the back page.	09:52:2
20	Q. Is this the affidavit you swore out on February 17th?	09:52:2
21	A. Yes, it is.	09:52:3
22	Q. Okay. Does it contain everything you know about this	09:52:3
23	defendant's case?	09:52:3
24	A. No, it doesn't.	09:52:3
25	Q. Is it a fair and accurate copy of that affidavit?	09:52:4

1	A. Yes, it is.	09:52:5
2	MR. HUDSON: Okay. And I'll ask the Court to	09:52:5
3	receive that now as Government's Exhibit Number 1.	09:52:5
4	THE COURT: All right. Any objection?	09:53:0
5	MS. KATCHMAR: I do, Your Honor. I simply have one	09:53:0
6	question related to the information contained therein.	09:53:0
7	THE COURT: All right. Go ahead. You may ask.	09:53:1
8	MS. KATCHMAR: May I stand at table?	09:53:1
9	THE COURT: You can do it from there. That's fine.	09:53:1
10	MS. KATCHMAR: Thank you. I would simply ask,	09:53:2
11	Detective Thomas, do you have personal knowledge and not	09:53:2
12	hearsay knowledge of the information contained in that	09:53:3
13	affidavit?	09:53:3
14	THE WITNESS: The knowledge that I have that from	09:53:4
15	that came from police reports, Virginia Beach police reports	09:54:0
16	that I personally have read.	09:54:0
17	MS. KATCHMAR: So not your personal knowledge?	09:54:1
18	THE WITNESS: That I personally read the Virginia	09:54:1
19	Beach police reports.	09:54:2
20	MS. KATCHMAR: But the facts contained in the	09:54:2
21	reports you do not have any personal knowledge?	09:54:2
22	THE WITNESS: If you're asking was I there, I was	09:54:3
23	not there.	10:04:2
24	MS. KATCHMAR: Your Honor, I would object as there	10:04:2
25	is -- the witness would not be able to testify as to the	10:04:2

1 veracity and the information contained in those reports, and 10:04:2  
2 it is all based on hearsay, and therefore we would object. 10:04:3

3 THE COURT: All right. Overruled. Thank you. 10:04:3

4 (The document was received in evidence as 10:04:3  
5 Government's Exhibit No. 1.) 10:04:3

6 BY MR. HUDSON: 10:04:3

7 Q. And, Detective Thomas, the basis for your knowledge, is 10:04:3  
8 that set out in the affidavit? 10:04:4

9 A. Yes, it is. 10:04:4

10 Q. And, sir, I want to direct your attention to various 10:05:0  
11 portions of the affidavit, specifically -- 10:05:0

12 THE COURT: Hold on. 10:05:1

13 MR. HUDSON: I'm sorry, sir. 10:05:1

14 THE COURT: I have a copy, so that's fine. 10:05:1

15 MR. HUDSON: Thank you, sir. 10:05:3

16 THE WITNESS: Thank you. 10:05:4

17 BY MR. HUDSON: 10:05:4

18 Q. Detective, I'd like to direct your attention to Paragraph 10:05:4  
19 4 in the affidavit, specifically the testing done by the 10:05:4  
20 state laboratory. Do you have an update on that testing for 10:05:5  
21 us today? 10:05:5

22 A. Yes, sir. 10:05:5

23 Q. Okay. And what is that? 10:07:2

24 A. The narcotics that was seized from this date was sent 10:07:2  
25 back to the state lab and asked them to perform a base 10:07:4

1 analysis test. And the report shows that the substance 10:07:5  
2 seized did contain crack cocaine or base cocaine, cocaine 10:07:5  
3 base. 10:08:0

4 Q. Now, sir, let me show you what I've marked as 10:08:0  
5 Government's Exhibit Number 2. 10:08:1

6 I apologize, sir. Let me show you now what I've 10:08:3  
7 marked as Government's Exhibit Number 2. Sir, do you 10:08:3  
8 recognize that? 10:08:4

9 A. Yes, I do. 10:08:4

10 Q. What is it? 10:08:4

11 A. It is the supplemental report for the substance that was 10:08:4  
12 seized in February of 2014 that was sent back to the lab. 10:08:5

13 Q. And is that the base analysis report you were just 10:09:0  
14 referring to? 10:09:0

15 A. Yes, it is. 10:09:0

16 MR. HUDSON: Okay. And I'd offer this now as 10:09:0  
17 Government's Exhibit 2. 10:09:1

18 THE COURT: All right. Any objection? 10:09:1

19 MS. KATCHMAR: Your Honor, we do object. We object 10:09:1  
20 based upon the following: The fact that it is supplemental, 10:09:1  
21 the basis for the information contained therein is based upon 10:09:2  
22 information not to the personal knowledge of this witness, 10:09:2  
23 and, in fact, the chain of custody has not been thereby 10:09:3  
24 established for the information contained in the report. 10:09:3

25 THE COURT: All right. Overruled. You know, this 10:09:4

1 is a preliminary hearing? 10:09:4

2 MS. KATCHMAR: I do, Your Honor. However, I do 10:09:4  
3 believe that some of this information is going to be before 10:09:4  
4 the Court put in fact. I understand the rules of evidence 10:09:5  
5 are very loose pursuant to Rule 1101. However, I am trying 10:10:0  
6 to establish a basis for my objection. 10:10:1

7 THE COURT: All right. Very well. Overruled. 10:10:1

8 (The document was received in evidence as 10:10:1  
9 Government's Exhibit No. 2.) 10:10:1

10 BY MR. HUDSON: 10:10:1

11 Q. And, sir, still keeping your attention on Paragraph 4 of 10:10:2  
12 the affidavit, certain phones are mentioned in Paragraph 4. 10:10:2  
13 Was a search warrant executed on those two cell phones? 10:10:3

14 A. Yes, sir. 10:10:3

15 Q. Okay. Was that a state search warrant? 10:10:3

16 A. Yes, it was. 10:10:4

17 Q. Okay. Now, are you able to summarize for the Court what 10:10:4  
18 was found in those phones? 10:10:4

19 A. Absolutely. 10:10:5

20 Q. Okay. Would you please just give the Court a brief 10:10:5  
21 summary of some of the highlights from those two cell phones. 10:10:5

22 A. In viewing the report from the cell phones, the contents 10:10:5  
23 of the cell phone, it contained phone numbers of an 10:11:0  
24 individual actually that I spoke with that provided 10:11:0  
25 additional information about Mr. Goffigan's drug trafficking 10:11:1



1	activities. It contained pictures of Mr. Goffigan himself.	10:11:1
2	It contained pictures of large sums of cash that were spread	10:11:2
3	out. It contained a picture of a number of large sum of	10:11:2
4	cash, and also had a firearm, a black handgun with it with an	10:11:4
5	extended clip, and it ex -- it also had a few text messages	10:11:4
6	on there that, based on my experience as a narcotics	10:11:5
7	detective for 22 years, I viewed them as being drug related.	10:11:5
8	Q. Can you explain that a little bit to the Court so we know	10:12:0
9	what you're talking about.	10:12:0
10	A. In particular there was a person that was looking to get	10:12:0
11	what he called a zone, and he was having a difficult time	10:12:1
12	with meeting up with Mr. Goffigan to get that zone, and he	10:12:2
13	talked about, you're making me look bad. I've had these	10:12:3
14	people waiting, you know, just trying to get a zone.	10:12:4
15	Q. And --	10:12:5
16	A. Also, there was a photograph of a maroon-colored Lexus,	10:12:5
17	which was the same vehicle that Mr. Goffigan was with when he	10:13:0
18	was encountered in February of 2014.	10:13:0
19	Q. And I don't know if you mentioned but based on your	10:13:1
20	training and experience, what is a zone?	10:13:1
21	A. I'm sorry. It's an ounce. I've known it to be an ounce	10:13:1
22	of a controlled substance, whether it's crack or powder	10:13:2
23	cocaine or heroin, but a zone is generally referred to as an	10:13:2
24	ounce.	10:13:3
25	Q. And, sir, let me direct your attention now to Paragraph	10:13:3

1 number 5 in this affidavit and specifically the testing by 10:13:3  
2 the Department of Forensic Science referenced in Paragraph 5. 10:13:4  
3 Do you have an update on the forensic science testing of the 10:13:5  
4 substance that's referenced in Paragraph 5 of your affidavit? 10:13:5

5 A. Yes, I do. 10:13:5

6 Q. Okay. And what is that? 10:14:0

7 A. The -- again, the drugs were sent back to the state lab 10:14:0  
8 and requested that a base analysis be performed, and the 10:14:1  
9 report came back and showed that it was crack cocaine or base 10:14:1  
10 cocaine, cocaine base. 10:14:2

11 Q. Sir, let me show you what I've marked as Government's 10:14:2  
12 Exhibit Number 3. 10:14:2

13 THE COURT: Have you been provided a copy, 10:14:3  
14 Ms. Katchmar? 10:14:3

15 MS. KATCHMAR: I have, Your Honor. Thank you. 10:14:3

16 BY MR. HUDSON: 10:14:4

17 Q. Well, sir, do you recognize that? 10:14:4

18 A. Yes, I do. 10:14:4

19 Q. What is it? 10:14:4

20 A. It is the supplemental report received from the lab that 10:14:4  
21 shows the substance seized in August of 2015 as being cocaine 10:14:5  
22 base. 10:14:5

23 Q. Is it a fair and accurate copy of that certificate? 10:14:5

24 A. Yes, it is. 10:15:0

25 MR. HUDSON: I'd ask the Court to receive that now 10:15:0

1 as Government's Exhibit Number 3. 10:15:0

2 THE COURT: All right. Objection, Ms. Katchmar? 10:15:0

3 MS. KATCHMAR: Your Honor, I would just maintain my 10:15:1  
4 prior objection. 10:15:2

5 THE COURT: All right. So noted. Overruled. 10:15:2

6 (The document was received in evidence as 10:15:2  
7 Government's Exhibit No. 3.) 10:15:3

8 MR. HUDSON: And, Your Honor, at this point I have 10:15:3  
9 one of two things I could do. I could ask the detective to 10:15:3  
10 provide a little more information that would be germane to 10:15:4  
11 detention only, or I can stop now and proffer additional 10:15:4  
12 information. I'm comfortable doing either, whichever the 10:15:5  
13 Court and whichever counsel feels is the most appropriate 10:15:5  
14 course of action. 10:16:0

15 THE COURT: Well, let's complete the testimony of 10:16:0  
16 Agent Thomas. All right. 10:16:0

17 MR. HUDSON: Yes, sir. 10:16:1

18 THE COURT: So go ahead with whatever examination 10:16:1  
19 you wish on the issue of detention, and I'll consider them as 10:16:1  
20 appropriate. 10:16:2

21 MR. HUDSON: Thank you, sir. 10:16:2

22 BY MR. HUDSON: 10:16:2

23 Q. Detective, I want to direct your attention to one of the 10:16:3  
24 cooperating witnesses in this case who is -- did you talk to 10:16:3  
25 a cooperating witness in this case? 10:16:4

1	A. Yes, I did.	10:16:4
2	Q. Okay. And did the cooperating witness indicate whether	10:16:4
3	or not he knew the defendant?	10:16:5
4	A. Yes, he did.	10:16:5
5	Q. Okay. Did he say that he did?	10:16:5
6	A. Yes, he did. He said he did know him.	10:17:0
7	Q. Okay. And if you could please describe for the Court	10:17:0
8	whether or not the witness knew anything about the	10:17:0
9	defendant's drug trafficking activities?	10:17:1
10	A. Yes, he did.	10:17:1
11	MS. KATCHMAR: Objection, overbroad.	10:17:1
12	THE COURT: Try to narrow it down a little bit,	10:17:1
13	Mr. Hudson.	10:17:2
14	MR. HUDSON: Yes, sir.	10:17:2
15	BY MR. HUDSON:	10:17:2
16	Q. Sir, did the -- when did this witness indicate that he	10:17:2
17	first knew the defendant to be involved in drug trafficking?	10:17:2
18	A. In approximately June/July of 2012.	10:17:3
19	Q. And what was the nature of it at that time?	10:17:3
20	A. The witness himself acknowledged that he was a crack	10:17:4
21	cocaine user, and that he was introduced to Mr. Goffigan	10:17:5
22	under the terms of purchasing crack cocaine from him.	10:17:5
23	Q. Did this witness ever become more than a user?	10:18:0
24	A. Yes, he did.	10:18:1
25	Q. Okay. Can you give us a little bit of the evolution to	10:18:1

1 that with respect to this defendant? 10:18:1

2 A. The witness had, over the course of time of dealing with 10:18:2

3 Mr. Goffigan, who he also referred to as Kayla, that he 10:18:2

4 purchased crack cocaine from him almost on a daily basis and 10:18:4

5 it eventually involved to several times a day, and that at 10:18:5

6 some point in time that the relationship evolved into around 10:19:2

7 more trust, and he was allowed to see more of what 10:19:2

8 Mr. Goffigan was doing. 10:19:3

9 Mr. Goffigan called him and relied on him for rides. 10:19:3

10 Mr. Goffigan gave him large sums of money in the amounts of 10:19:3

11 approximately \$35,000 to hold for him. Mr. Goffigan borrowed 10:19:4

12 money from him in sums of ten thousands of dollars, and he's 10:19:5

13 also seen Mr. Goffigan cooking crack cocaine on numerous 10:20:0

14 occasions. He mentioned in the sense where he saw 10:20:0

15 Mr. Goffigan in possession of two kilograms of crack cocaine 10:20:1

16 on Mellon Drive in Norfolk, Virginia at Mr. Goffigan's 10:20:1

17 girlfriend, Tracy's house, and that he was removing two to 10:20:4

18 three ounces of crack cocaine from one kilo and cooking it on 10:20:5

19 the stove, and the other kilogram was left packaged. 10:20:5

20 Q. And, sir, to clear up, did this witness eventually start 10:21:0

21 helping this defendant sell crack cocaine? 10:21:0

22 A. The witness, yes, he did. He was beginning to make 10:21:1

23 deliveries for Mr. Goffigan, locations, he named locations to 10:21:1

24 the Scarborough Square in Virginia Beach, Virginia, and an 10:21:2

25 address on Kensington Drive in Virginia Beach, Virginia; 10:21:3

1	Calvin (ph.) Estates out in Chesapeake, Virginia, off of	10:21:4
2	Cedar Road, and several other locations that he mentioned.	10:21:5
3	Q. And in doing so did this witness indicate about how much	10:21:5
4	he was making on any given weekend?	10:22:1
5	A. Well, the defendant -- the witness himself wasn't making	10:22:1
6	any money, but he was turning money over to Mr. Goffigan.	10:22:1
7	And he said at times that he had made as much as \$5,000 from	10:22:2
8	a Friday to a Sunday, and as much as \$1500 on a day making	10:22:2
9	deliveries for Mr. Goffigan.	10:22:3
10	Q. Did this witness mention any guns as to Mr. Goffigan?	10:22:3
11	A. The witness said on occasions he seen Mr. Goffigan with a	10:22:3
12	black handgun while he was counting large sums of money or	10:22:5
13	cooking large amounts of crack.	10:22:5
14	Q. Did the witness indicate whether or not this defendant	10:23:0
15	used one location or multiple locations to sell?	10:23:0
16	A. The witness advised that he used multiple locations.	10:23:1
17	Q. And last question, this particular witness, how much --	10:23:2
18	do you have a total or a ballpark total of how much crack	10:23:2
19	cocaine this witness purchased from this defendant?	10:23:3
20	A. Yes, I do.	10:23:3
21	Q. And that is approximately what?	10:23:3
22	A. Well over a kilogram of crack cocaine.	10:23:3
23	MR. HUDSON: All right. Thank you, sir. Please	10:23:5
24	answer any questions that Ms. Katchmar might have for you.	10:23:5
25	THE WITNESS: Thank you.	10:23:5

1 MS. KATCHMAR: Your Honor, may I have one moment, 10:23:5  
2 please? 10:24:0

3 THE COURT: All right. Go ahead. 10:24:0

4 MS. KATCHMAR: Thank you. 10:24:1

5 CROSS-EXAMINATION 10:24:1

6 BY MS. KATCHMAR: 10:24:1

7 Q. Good morning again, Detective. 10:24:3

8 A. Good morning, ma'am. 10:24:3

9 Q. Talking about the events of 2014 that are referenced in 10:24:3  
10 your complaint, I believe Paragraphs 3 and 4; is that 10:24:4  
11 correct? Do you have it in front of you? 10:24:4

12 A. Yes and no. 10:24:4

13 Q. I want to talk to you about the eventual contact and 10:24:4  
14 identification of some items, if we could. 10:24:5

15 A. Sure. 10:25:0

16 Q. First, you have in front of you a supplemental report of 10:25:0  
17 some drugs that were recovered at the scene; is that correct? 10:25:0

18 A. I don't have it in front of me but I did view it, yes, 10:25:0  
19 ma'am. 10:25:2

20 Q. All right. 10:25:2

21 THE COURT: Would you like the witness to have it? 10:25:2

22 MS. KATCHMAR: No, Your Honor. I know that he sees 10:25:2  
23 it and that was my only reference to it. Thank you so much. 10:25:3

24 BY MS. KATCHMAR: 10:25:3

25 Q. So, Detective Thomas, you were not present at the events 10:25:3

1	of February 2014?	10:25:4
2	A. No, ma'am, I was not.	10:25:4
3	Q. You did not see and experience what is referenced in the	10:25:4
4	police reports from February of 2014?	10:25:4
5	A. No, I did not.	10:25:5
6	Q. And I'm specifically talking about the events identified	10:25:5
7	in Paragraphs 3 and 4, February 19, 2014?	10:25:5
8	A. That's a no.	10:25:5
9	Q. Okay. Regarding those items, you know that there was a	10:26:0
10	seizure of drugs that were alleged to have been dropped,	10:26:1
11	correct?	10:26:3
12	A. Actually, what I know is from -- again, from the Virginia	10:26:3
13	Beach police reports and information that I also know from	10:26:4
14	talking with the cooperating witness, what I know is that	10:26:4
15	there were drugs found in a red or maroon-colored Lexus,	10:26:5
16	which is a picture on the phone that was recovered that was	10:27:0
17	dropped by Mr. Goffigan.	10:27:1
18	Q. Okay.	10:27:1
19	A. And that there was another quantity, an ounce of powder	10:27:1
20	cocaine that was thrown by a pool fence that the cooperating	10:27:1
21	witness went back the next day, at the direction of	10:27:2
22	Mr. Goffigan, went and got.	10:27:2
23	Q. Okay. That wasn't my question. I said on the day, there	10:27:3
24	is an allegation that a person ran and dropped some cell	10:27:4
25	phones, correct?	10:27:4



1	A. On the day --	10:27:4
2	Q. Yes.	10:27:5
3	A. -- the police officer --	10:27:5
4	Q. Yes.	10:27:5
5	A. -- that I know encountered Mr. Goffigan --	10:27:5
6	Q. Yes.	10:27:5
7	A. -- identified him --	10:28:0
8	Q. Yes.	10:28:0
9	A. -- and to arrest him, and Mr. Goffigan took off running,	10:28:1
10	and cell phones were dropped.	10:28:4
11	Q. Okay. There were no drugs dropped seen by the officer?	10:28:4
12	A. There were drugs seen by the officer, what he believed	10:28:5
13	was an exchange prior to approaching him, and then when he	10:29:0
14	approached the car, he saw drugs in plain view in the car,	10:29:1
15	and that's the reason why he went to arrest Mr. Goffigan.	10:29:1
16	Q. During the run there were no drugs seen dropped?	10:29:2
17	A. No.	10:29:2
18	Q. There was no chase near the pool?	10:29:2
19	A. I don't know that. I don't know that he chased him by a	10:29:3
20	pool.	10:29:5
21	Q. Detective Thomas --	10:29:5
22	A. Uh-huh.	10:30:0
23	Q. -- the drugs that you identified or referenced by a	10:30:0
24	cooperating witness that were an ounce found by the pool --	10:30:1
25	A. Yes.	10:30:2

1 Q. -- is information from a source other than a law 10:30:2  
2 enforcement agent? 10:30:3

3 A. Correct. 10:30:3

4 Q. Is that the same cooperating witness that Mr. Hudson was 10:30:3  
5 just asking you about regarding past use, purchase and sale? 10:30:4

6 A. Yes. 10:30:4

7 Q. Other than regarding Mr. Goffigan, have you had an 10:30:4  
8 opportunity to work with this cooperating witness in the 10:30:5  
9 past? 10:30:5

10 A. No. 10:30:5

11 Q. Regarding the cell phones, other than a search warrant 10:30:5  
12 made on the cell phones, what efforts were made to actually 10:31:0  
13 know whether or not they were owned by Mr. Goffigan? 10:31:1

14 A. The officer heard and saw the phones dropped while he was 10:31:1  
15 chasing Mr. Goffigan. 10:31:2

16 Q. I didn't ask you about possession, Detective. I said 10:31:2  
17 ownership. What other efforts were made to determine whether 10:31:3  
18 or not these were, in fact, owned? 10:31:4

19 A. To my knowledge, there are no other efforts that could be 10:31:4  
20 made until a search warrant is executed and then subpoenas 10:31:5  
21 for the phone records are done, and then in those cases the 10:32:0  
22 phones still may not come back to that person because many 10:32:1  
23 times narcotics -- narcotic dealers don't register things in 10:32:1  
24 their own name. 10:32:2

25 Q. So you don't know? 10:32:2

1	A. No.	10:32:2
2	Q. In terms of the cooperating witness in this case that	10:32:3
3	Mr. Hudson was just talking about, it references back to a	10:32:4
4	date, I think it was 2012?	10:32:4
5	A. Beginning in 2012, July/June of 2012.	10:32:5
6	Q. Okay. All in Virginia Beach?	10:32:5
7	A. Virginia Beach, Chesapeake.	10:32:5
8	Q. And have there been any seizure or review of bank records	10:33:0
9	regarding Mr. Goffigan?	10:33:0
10	A. Not yet.	10:33:0
11	Q. Is that the intent of your investigation?	10:33:1
12	A. It may be a part of my investigation.	10:33:1
13	Q. Does this cooperating witness have his own felony	10:33:1
14	criminal history?	10:33:2
15	A. Yes.	10:33:2
16	Q. And a substantial drug habit?	10:33:2
17	A. Yes.	10:33:3
18	Q. And some of the information, at least to date, you have	10:33:3
19	been unable to corroborate, correct?	10:33:3
20	A. I've been able to corroborate a lot more than I've been	10:33:3
21	able to not corroborate.	10:33:4
22	Q. High amounts of money, you have not been able to	10:33:4
23	corroborate that?	10:33:5
24	A. I haven't been able to corroborate it, but with the	10:33:5
25	pictures that I've seen on the cell phone with Mr. Goffigan's	10:34:1

1	face on them, there are closed sales amounts or could it be.	10:34:1
2	Q. You did not check the dates to determine whether or not	10:34:3
3	it was, in fact, related?	10:34:3
4	A. No, I did not.	10:34:3
5	Q. You didn't check to determine whether or not those were	10:34:3
6	pictures superimposed from the Internet?	10:34:4
7	A. No, I did not.	10:34:5
8	Q. You're aware that on the Internet you can just spell and	10:34:5
9	find pictures of anything?	10:35:0
10	A. Absolutely.	10:35:0
11	Q. So at that point it's regarding the amounts and the	10:35:1
12	pictures and as it relates to the confidential -- or	10:35:1
13	cooperating witness, excuse me, I know there's a	10:35:2
14	difference -- there has been no corroboration about the	10:35:3
15	monies?	10:35:3
16	A. Again?	10:35:3
17	Q. Just speculation about the monies and the pictures and	10:35:4
18	the cooperating witness?	10:35:4
19	MR. HUDSON: Your Honor, I'm going to object that	10:35:4
20	this has been asked and answered. I think we have a --	10:35:5
21	THE COURT: Well, it's not the objection that seems	10:35:5
22	appropriate. Why don't you start over and kind of use	10:36:0
23	phrases.	10:36:0
24	MS. KATCHMAR: I will.	10:36:0
25	THE COURT: So just start over and ask the question.	10:36:1

1	BY MS. KATCHMAR:	10:36:1
2	Q. You have photos on the phone --	10:36:1
3	A. That's correct.	10:36:1
4	Q. -- that you looked at regarding money?	10:36:2
5	A. That's correct.	10:36:2
6	Q. You have a cooperating witness that you've never worked	10:36:2
7	for talking to you about large sums of money?	10:36:2
8	A. That I've ever worked with before?	10:36:3
9	Q. Yes.	10:36:3
10	A. Yes, that's correct.	10:36:3
11	Q. Talking to you about large sums of money?	10:36:4
12	A. Correct.	10:36:4
13	Q. But that those large sums of money may not be those that	10:36:4
14	you've seen on the telephone?	10:36:5
15	A. Correct.	10:36:5
16	Q. And you haven't checked the timing?	10:36:5
17	A. Correct.	10:36:5
18	Q. Or whether or not those photos on the phone are, in fact,	10:36:5
19	real or superimposed?	10:37:0
20	A. Correct.	10:37:0
21	Q. When you talked to this cooperating witness was he in or	10:37:0
22	out of custody?	10:37:1
23	A. In custody.	10:37:1
24	Q. And he has a significant felony criminal history related	10:37:2
25	to drugs?	10:37:2

1	A. No, not related to drugs.	10:37:2
2	Q. Does he have a felony criminal history?	10:37:3
3	A. Yes, he does.	10:37:3
4	Q. State or federal?	10:37:3
5	A. State.	10:37:3
6	Q. Okay. Have you been to any locations in Scarborough or	10:37:5
7	reviewed or had any surveillance there related to his	10:37:5
8	comments?	10:37:5
9	A. I'm not sure what you're asking me. Have I been to those	10:37:5
10	locations and those addresses based on his information?	10:38:0
11	Q. Yes.	10:38:1
12	A. I'm very familiar with those neighborhoods and also	10:38:1
13	familiar with other information that places Mr. Goffigan in	10:38:1
14	those neighborhoods dealing drugs, so when I hear that	10:38:2
15	information from that cooperating witness, it only verifies	10:38:3
16	what I already knew.	10:38:3
17	Q. So the answer is no, based upon the information the	10:38:3
18	cooperating witness gave you, you then did not act, you	10:38:4
19	relied on past information?	10:38:4
20	A. I'm confused with what you're asking me.	10:38:4
21	Q. Simple. The cooperating witness talked to you about --	10:38:4
22	A. Scarborough Square, yes.	10:38:5
23	Q. -- Scarborough Square?	10:39:0
24	A. Yes.	10:39:0
25	Q. And you're familiar with that area?	10:39:0

1	A. Yes.	10:39:0
2	Q. Drug trafficking in that area?	10:39:0
3	A. Yes.	10:39:1
4	Q. But related to the information provided to you by this	10:39:1
5	cooperating witness, you then did not act, you relied on	10:39:1
6	information you previously obtained?	10:39:1
7	A. Yes.	10:39:2
8	Q. From other cooperating witnesses?	10:39:2
9	A. From another cooperating witness, yes.	10:39:3
10	Q. That you had worked with in the past?	10:39:3
11	A. I have not worked with him but a lot of the detectives	10:39:4
12	have.	10:39:4
13	Q. So you have not directly talked with him?	10:39:4
14	A. I have directly talked with him.	10:39:4
15	Q. Based upon what time frame?	10:39:4
16	A. Based upon what time frame?	10:39:5
17	Q. As it relates?	10:39:5
18	A. When did I talk to him or --	10:39:5
19	Q. Yes.	10:40:0
20	A. I talked to him in January 2015.	10:40:0
21	Q. About a year ago?	10:40:0
22	A. No. I'm sorry, January 2016.	10:40:0
23	Q. Okay. About a month ago?	10:40:1
24	A. Yes.	10:40:1
25	Q. Is he a state or federal --	10:40:1

1	A. What?	10:40:1
2	Q. -- individual.	10:40:1
3	A. Neither.	10:40:1
4	Q. Does he have a felony history?	10:40:3
5	A. Yes.	10:40:3
6	Q. History of drug use?	10:40:3
7	A. I don't know.	10:40:3
8	Q. Are you familiar with the places, I think you said Cedar	10:40:4
9	Road that were referenced from Chesapeake?	10:40:4
10	A. I am not familiar myself, no.	10:40:5
11	Q. So you have not acted on the information that your	10:41:0
12	cooperating witness has provided you as it relates to Cedar	10:41:2
13	Road?	10:41:2
14	A. I have another detective or a task force officer who is	10:41:2
15	from Chesapeake with the (Unintelligible) entity, and he was	10:41:4
16	aware of the neighborhood. So, no, I did not act on it.	10:41:4
17	Q. To your knowledge, as you're the primary, did he move to	10:41:4
18	attempt to corroborate or act on it?	10:41:5
19	A. No. No.	10:41:5
20	MS. KATCHMAR: Your Honor, may I have one moment,	10:42:1
21	please?	10:42:2
22	THE COURT: All right.	10:42:2
23	BY MS. KATCHMAR:	10:42:2
24	Q. Your cooperating witness, when did he say the last time	10:42:2
25	he had contact with Mr. Goffigan, the one that we're talking	10:42:3



1	about with Mr. Hudson?	10:42:5
2	A. April 2015.	10:42:5
3	Q. Over a year --	10:43:0
4	A. April 2015.	10:43:0
5	Q. Almost a year ago?	10:43:0
6	A. Yes.	10:43:0
7	Q. And you never said -- he just gave a very basic	10:43:0
8	description of the gun; is that correct?	10:43:1
9	A. That's correct. Black handgun.	10:43:2
10	Q. I'm sorry?	10:43:2
11	A. A black handgun.	10:43:2
12	Q. Pretty general description?	10:43:4
13	A. Yes.	10:43:4
14	Q. Never said that he had been threatened by a gun with	10:43:4
15	Mr. Goffigan?	10:43:5
16	A. No.	10:43:5
17	Q. Okay. Never said that he had been forced to use a gun by	10:43:5
18	Mr. Goffigan?	10:44:0
19	A. No.	10:44:0
20	MS. KATCHMAR: I have no other questions. Thank	10:44:0
21	you.	10:44:0
22	THE WITNESS: All right. Thank you, Ms. Katchmar.	10:44:0
23	Any redirect, Mr. Hudson?	10:44:1
24	MR. HUDSON: A little bit.	10:44:1
25	REDIRECT EXAMINATION	10:44:1

1 BY MR. HUDSON:

10:44:1

2 Q. Detective, during the search warrant of the phones we've  
3 been discussing, was there any contact information contained  
4 in the phone that would be indicative of it being the  
5 defendant's phone?

10:44:1

10:44:1

10:44:2

10:44:3

6 A. Yes.

10:44:3

7 Q. Okay. Will you please briefly describe that for the  
8 Court.

10:44:3

10:44:3

9 A. The phone number from that phone was the same phone  
10 number that the cooperating witness provided to me. He said  
11 that was Mr. Goffigan's phone. There were -- there was a  
12 particular text message for an address on Shortleaf Court in  
13 Virginia Beach where the cooperating witness said that  
14 Mr. Goffigan lived at with a young lady by the name of  
15 Ashley, Ashley Haynes, I believe it was, and that was on the  
16 phone, as well. I think that's --

10:44:3

10:44:4

10:44:4

10:45:0

10:45:0

10:45:1

10:45:2

10:45:3

17 Q. That's what you can think of off the top of your head?

10:45:4

18 A. That is what I can think of off the top of my head.

10:45:5

19 Q. Directing your attention to the detective that was  
20 involved in the February 19th, 2014 incident, was that a beat  
21 police or a narcotics detective or a -- what was his  
22 specialty, if any?

10:45:5

10:46:0

10:46:0

10:46:1

23 A. He was a uniformed officer. He was a master police  
24 officer. He has spent several years in special  
25 investigations. I have worked with him for several years and

10:46:1

10:46:3

10:46:4

1 then he went back to uniform for a short stint in time. 10:46:5

2 Q. And -- 10:46:5

3 A. He's still back in -- he's back in narcotics again now. 10:47:0

4 Q. Okay. And special investigations, does that cover drug 10:47:0

5 crimes in Virginia Beach? 10:47:1

6 A. Yes, it does. 10:47:1

7 Q. Okay. Do you have a ballpark for how long he's been with 10:47:1

8 the Virginia Beach Police Department? 10:47:1

9 A. I would say 15 years. 10:47:1

10 MR. HUDSON: Okay. Thank you, sir. 10:47:3

11 THE COURT: All right. Thank you, Mr. Hudson. 10:47:4

12 May this witness be excused? 10:47:4

13 MS. KATCHMAR: Yes. Thank you. 10:47:5

14 THE COURT: All right. Thank you, Agent Thomas. 10:47:5

15 THE WITNESS: Thank you. 10:47:5

16 (Witness excused.) 10:47:5

17 THE COURT: All right. Now, the Court recognizes 10:48:0

18 that some of Agent Thomas' testimony is not specific to the 10:48:0

19 question of probable cause on these charges but went to the 10:48:1

20 issue of dangerousness to the community and the question of 10:48:1

21 detention. 10:48:2

22 But I want to stick with the probable cause evidence 10:48:2

23 first. If there is anything further, Mr. Hudson, do you have 10:48:2

24 any further proffer you wish to make on probable cause? 10:48:3

25 MR. HUDSON: No, sir. 10:48:3

1 THE COURT: Ms. Katchmar, do you have any proffer 10:48:3  
2 you wish to make on probable cause? 10:48:4

3 MS. KATCHMAR: No, Your Honor. Thank you. 10:48:4

4 THE COURT: Do you wish to argue the probable cause 10:48:4  
5 question? 10:48:5

6 MS. KATCHMAR: No. We will stand on the evidence. 10:48:5  
7 Thank you. 10:48:5

8 THE COURT: All right. Then based on the Court's 10:48:5  
9 review of the evidence, including the affidavit and the 10:48:5  
10 testimony of Agent Thomas and the exhibits that were 10:49:0  
11 proffered, the Court finds that there has been probable cause 10:49:0  
12 to establish the charges, specifically possession with intent 10:49:0  
13 to distribute cocaine and cocaine base charges, that that 10:49:1  
14 crime was committed and that the defendant committed that 10:49:2  
15 crime. 10:49:2

16 Certainly, the specific events of February the 19th, 10:49:2  
17 2014 and August the 10th of 2015, as relayed in the affidavit 10:49:3  
18 and as discussed by Agent Thomas, provides sufficient indicia 10:49:3  
19 that the defendant had been engaged in the sale of those 10:49:4  
20 drugs, along with the agent's testimony of the information 10:49:4  
21 from the cooperating witness, so I will find probable cause. 10:49:5

22 Now, on the question of detention, the charge here 10:49:5  
23 is a charge under the Controlled Substances Act for which the 10:49:5  
24 maximum sentence is at least ten years. 10:50:0

25 So, Ms. Katchmar, I'll look to you first. If you 10:50:0

1 have any factual proffer you wish to make to rebut the 10:50:1  
2 presumption of detention, because under 3142(f) there is a 10:50:1  
3 presumption so -- excuse me, (e), there is a presumption. 10:50:2  
4 So, if you have a factual proffer you wish to make, I'll be 10:50:3  
5 glad to hear it. 10:50:3

6 MS. KATCHMAR: Your Honor, this is where I always 10:50:3  
7 get a little confused so I look for a little bit of guidance 10:50:4  
8 from the Court. My proffer would have more to do with the 10:50:4  
9 facts in the pretrial report than it does to the allegations 10:50:4  
10 relating to Mr. Goffigan. So if the Court would like that 10:50:5  
11 simply an argument, I can. 10:50:5

12 Otherwise -- 10:50:5

13 THE COURT: Yes, that would be fine. What I -- 10:51:0

14 MS. KATCHMAR: My other proffer would be this, as it 10:51:0  
15 relates to the facts before the Court, if I may, in the 10:51:1  
16 affidavit and for probable cause. My proffer would be as 10:51:1  
17 follows: One, we have events that are over two years ago 10:51:2  
18 from today. There was at that time arrest. He was on bond. 10:51:2  
19 There was a significant period of time that followed. That 10:51:3  
20 case has not been resolved. It has now been nolle prossed in 10:51:3  
21 state court pursuant to a bond report in relation to charges 10:51:4  
22 being filed federally. 10:51:4

23 As it relates to the allegations from August 10th, 10:51:4  
24 2015, once Mr. Goffigan was shot, there is those -- the 10:51:5  
25 allegation is those drugs were found in his pocket when 10:52:0

1 clothes were seized while lifesaving events were taking 10:52:0  
2 place. What I would like to state to the Court is the 10:52:0  
3 following: that there was nothing before the Court that 10:52:1  
4 those clothes were, in fact, necessary and important for 10:52:1  
5 investigation. There is no forensic information stating that 10:52:2  
6 they were useful and that they were collected. They state 10:52:2  
7 that they were collected, in the paragraph that follows, for 10:52:3  
8 forensic and investigative purposes. 10:52:3

9 There is nothing before that Court -- the Court 10:52:4  
10 stating that that was, in fact, done. The clothes then were 10:52:4  
11 taken, and we don't know the circumstances surrounding what 10:52:4  
12 was going on before the medical personnel showed up. There 10:52:5  
13 was several people in the area, we would assert, and there is 10:52:5  
14 also an allegation that there were some drugs involved. 10:52:5

15 So we would say that the chain of custody regarding 10:53:0  
16 the drugs is at issue. Whether or not they could have even 10:53:0  
17 been seized and the clothing was seized is an issue, and 10:53:0  
18 whether or not the hospital personnel were acting under color 10:53:1  
19 of law enforcement when they handed that over. So we believe 10:53:1  
20 that it may, in fact, be an improper search. 10:53:1

21 Based upon that, that would be our proffer relating 10:53:2  
22 to some of the facts that are contained in the affidavit. 10:53:2

23 THE COURT: All right. 10:53:2

24 MS. KATCHMAR: Everything else would be argument as 10:53:2  
25 it relates to his detention. 10:53:3

1           THE COURT: Well, and I understand, so you're 10:53:3  
2 relying on some of the information in the pretrial services 10:53:3  
3 report -- 10:53:4

4           MS. KATCHMAR: Yes. 10:53:4

5           THE COURT: -- with respect to, for instance, the 10:53:4  
6 defendant was a lifelong resident of the area. You mentioned 10:53:4  
7 in the first part of your proffer that he was on bond from 10:53:5  
8 the February 2014 charges. 10:54:0

9           MS. KATCHMAR: Yes. 10:54:0

10          THE COURT: But the Court has no information about 10:54:0  
11 what happened with respect to the charges that apparently 10:54:1  
12 were levied as a result of the August 2015 seizure of 10:54:1  
13 narcotics when the defendant was shot. What I'm asking you 10:54:2  
14 about is, it looks like he was arrested on September 24th, 10:54:3  
15 and those charges were nolle prossed. 10:54:3

16          MS. KATCHMAR: Correct. 10:54:4

17          THE COURT: But where was he? Was he in the 10:54:5  
18 hospital? Was he released on bond? Was he in custody? I 10:54:5  
19 have no information about that. Do you have any you wish to 10:54:5  
20 proffer? 10:55:0

21          MS. KATCHMAR: I do. I believe that he had already 10:55:0  
22 gone home, and he had gone home and was at home, basically, 10:55:0  
23 convalescing. But let me refer that -- double-check that. 10:55:1

24          And that's what I remember because, as an offer of 10:55:3  
25 proof we were talking about this, that here he was, he'd been 10:55:3

1 shot. He goes home. He's at home convalescing. People, 10:55:4  
2 they were wearing -- a huge SWAT team came, and he ended up 10:56:1  
3 being taken into custody with an allegation that it wasn't 10:56:2  
4 known exactly where he was yet. He was still on probation. 10:56:2  
5 He was still on bond. And he was reporting as required to 10:56:2  
6 probation at that time. So there was not an issue of him 10:56:3  
7 being a risk, being at -- or failing to appear anyway. 10:56:3

8 THE COURT: So which arrest was this, the September 10:56:4  
9 one? 10:56:5

10 MS. KATCHMAR: The September one was related to the 10:56:5  
11 drugs that were found in the pants. 10:57:0

12 THE COURT: And then he was subsequently bonded 10:57:0  
13 again? 10:57:1

14 MS. KATCHMAR: No, Your Honor. He has been in 10:57:1  
15 custody since September 24th, 2015. 10:57:1

16 THE COURT: That is what I'm trying to find out. 10:57:1

17 MS. KATCHMAR: My apologies. I'm not trying to 10:57:2  
18 elongate this in any way. 10:57:2

19 THE COURT: Too late. No. So just so I understand, 10:57:3  
20 because if he had been bonded out a second time -- 10:57:5

21 MS. KATCHMAR: He has not. 10:57:5

22 THE COURT: -- then the Court would obviously take 10:57:5  
23 that into consideration as to the question of dangerousness. 10:57:5

24 MS. KATCHMAR: Correct. 10:58:0

25 THE COURT: All right. 10:58:0



1 MS. KATCHMAR: No, he has been in custody since 10:58:0  
2 September 24th, 2015, and in the Virginia Beach jail. I 10:58:0  
3 would also proffer the people who are present here today, but 10:58:1  
4 then I would also provide some additional information from 10:58:1  
5 the bond report. 10:58:2

6 His mother, Mrs. Whorl, who is here, she's the young 10:58:2  
7 lady in the light blue shirt and the leather coat. His 10:58:3  
8 sister is behind her and to the left. She's in the black. 10:58:3  
9 And family friend, Takia Mentor, she's in the dark blue. 10:58:4  
10 Another family friend Janece Williams, she is sitting in the 10:59:0  
11 laced shirt. I sent Uncle Melvin out. He had Mr. Goffigan's 10:59:1  
12 small child, five months. So I felt it appropriate to send 10:59:2  
13 them out of the courtroom. And we have Tracy Shaw, 10:59:2  
14 Mr. Goffigan's long-time girlfriend. So with that, Your 10:59:3  
15 Honor, I can either move into my argument for rebuttal of the 10:59:3  
16 presumption or I can sit down. 10:59:4

17 THE COURT: Why don't you have a seat. 10:59:4

18 MS. KATCHMAR: Thank you. 10:59:4

19 THE COURT: I'll hear from Mr. Hudson about any 10:59:4  
20 factual proffer now the Government wishes to make. 10:59:4

21 MR. HUDSON: Well, sir, of course, the Government 10:59:5  
22 would ask the Court to consider the report prepared by 10:59:5  
23 probation in addition to what Detective Thomas, to his 10:59:5  
24 testimony just a few minutes ago. 11:00:0

25 The only other things I would offer the Court in the 11:00:0

1 way of facts that might be somewhat responsive to the 11:00:1  
2 concerns the defense brought up, as to the August 2015 11:00:1  
3 incident, the clothes being cut off the defendant, that was 11:00:2  
4 witnessed by law enforcement. That happening was witnessed 11:00:3  
5 by law enforcement, and there are hospital witnesses as well 11:00:3  
6 who saw that happen. These were bloody clothes from someone 11:00:4  
7 who had just been shot. 11:01:0

8 Those were maintained, as it says in the affidavit, 11:01:0  
9 and eventually turned over to a forensics technician. The 11:01:1  
10 blood was swabbed on there. I do believe it was submitted to 11:01:1  
11 the Department of Forensic Science. So it was used to 11:01:1  
12 further the shooting investigation. There was an arrest made 11:01:2  
13 in the shooting investigation. 11:01:2

14 The defendant was questioned in late September of 11:01:3  
15 '15 regarding the shooting incident. Now, at that point, of 11:01:3  
16 course, they knew they had found crack cocaine in the pants 11:01:4  
17 in question. So they did -- the police did Mirandize him. 11:01:4  
18 But the purpose of the interview was really to talk to him 11:01:5  
19 about the shooting. 11:01:5

20 They obtained information regarding who the shooter 11:01:5  
21 was, and, indeed, the shooter had been arrested. 11:02:0  
22 Interestingly, I will note for the Court when it came time 11:02:0  
23 for the defendant to testify against the shooter, he 11:02:1  
24 declined, and a number of the shooter's charges have been 11:02:4  
25 nolle prosequi as a result of that. 11:02:5

1           But there was an investigation into the shooting, 11:03:5  
2     rather extensive. One canvassed the neighborhood, speak to 11:04:0  
3     witnesses, that sort of thing. This was not -- the cutting 11:04:1  
4     of the pants off the defendant and turning it over to a 11:04:1  
5     forensics technician, this was not something that was, you 11:04:2  
6     know, just done to try to get a free search, if that's the 11:04:3  
7     defense's concern. 11:04:3

8           THE COURT: Why was the defendant shot? 11:04:4

9           MR. HUDSON: So the defendant claims that he knew 11:04:4  
10    his shooter but that they had never had trouble before. I 11:04:5  
11    will note for the Court that when the shooter was found by 11:05:0  
12    police, he had not only the gun that matched the description 11:05:0  
13    of the gun everyone gave, including the defendant, and the 11:05:1  
14    description of the face mask that everyone gave, too, he also 11:05:1  
15    had drugs with him. So the belief is that it is a 11:05:1  
16    drug-related shooting. 11:05:2

17          MS. KATCHMAR: I would object. That is purely 11:05:2  
18    speculation, sir. 11:05:2

19          THE COURT: Well, hold on a second. 11:05:3

20          MR. HUDSON: Yes, sir. 11:05:3

21          THE COURT: I'm asking for a factual proffer -- 11:05:3

22          MR. HUDSON: Yes, sir. 11:05:4

23          THE COURT: -- as to the circumstances surrounding 11:05:4  
24    what appears to be an extraordinarily violate event involving 11:05:4  
25    this defendant. If you have information, I'd like to hear 11:05:4

1 it. Now, if the police have a theory, and it's just a 11:05:5  
2 theory, I can hear that, too. But I'll take it for what it's 11:05:5  
3 worth because, obviously, apparently there is no prosecution, 11:06:0  
4 at least now, on it. But, you know, I'm looking at -- you 11:06:0  
5 all know what questions I'm looking at. 11:06:1

6 MR. HUDSON: Yes, sir. 11:06:1

7 THE COURT: Not the least of which is danger to the 11:06:1  
8 community, and the risk of danger posed by the defendant's 11:06:1  
9 release. I have a defendant who has been shot. 11:06:2

10 MR. HUDSON: Yes, sir. 11:06:3

11 THE COURT: Obviously, I'm interested in that to 11:06:3  
12 determine whether or not the fact that he was shot once 11:06:3  
13 presents a risk. Perhaps it could happen again. So I'm 11:06:4  
14 asking for information. 11:06:4

15 MR. HUDSON: Yes, sir. 11:06:4

16 THE COURT: If you have it, great. If the police 11:06:4  
17 have a working theory, and all it is is a theory, that's 11:06:5  
18 okay. I'll take it for what it's worth. But I need to 11:06:5  
19 evaluate -- 11:07:0

20 MR. HUDSON: Yes, sir. 11:07:0

21 THE COURT: -- what risks there are in considering 11:07:0  
22 the defendant's release. 11:07:0

23 MR. HUDSON: So what I just offered the Court, I 11:07:0  
24 suppose, could be characterized as a theory, but here is what 11:07:1  
25 it's based on. It's based on what was recovered from the 11:07:1

1 shooter when he was arrested by police. It is based on the 11:07:2  
2 police's knowledge of both this defendant's background as 11:07:2  
3 well as the shooter's background. The police have 11:07:3  
4 information that the shooter is involved in a gang, I'm told, 11:07:4  
5 and that this was -- I don't know how much detail the Court 11:07:4  
6 wants me to go into as to how witnesses say the shooting 11:07:4  
7 occurred. 11:08:0

8 THE COURT: Well, that's enough, Mr. Hudson. I 11:08:0  
9 understand what the Government's operating theory is. It was 11:08:0  
10 the Government's belief that it was a drug-related conflict? 11:08:1

11 MR. HUDSON: Yes, sir, based on -- yes. Yes, sir. 11:08:1

12 THE COURT: All right. In other words, he wasn't in 11:08:1  
13 a 7-Eleven and somebody came in to rob it and he was the -- 11:08:1

14 MR. HUDSON: No, sir. 11:08:3

15 THE COURT: -- and the victim standing there who got 11:08:3  
16 shot by an aggressive robber? 11:08:4

17 MR. HUDSON: It was car comes into the neighborhood, 11:08:4  
18 shooter gets out, shoots defendant, quickly gets back in car, 11:08:4  
19 leaves neighborhood. That's how it occurred, sir. 11:08:5

20 THE COURT: All right. 11:08:5

21 MR. HUDSON: Other than that, I have only argument. 11:08:5

22 THE COURT: All right. Well, don't sit down. 11:09:0

23 MR. HUDSON: Yes, sir. Of course. I'm sorry. 11:09:1

24 THE COURT: Let me hear your argument. Go ahead. 11:09:1  
25 Let me hear your argument. 11:09:1

1           MR. HUDSON: Yes, sir. Of course. Okay. Well, 11:09:2  
2           there are a number of reasons why the defendant should be 11:09:2  
3           detained pending trial. Of course, start with the 11:09:2  
4           presumption. Second, the defendant has a terrible criminal 11:09:2  
5           history, as the Court can see from the pretrial services 11:09:3  
6           report. He's an eight-time felon. All except one of those 11:09:3  
7           are drug trafficking felonies. 11:09:3

8           The Government anticipates that as such he will 11:09:4  
9           qualify as a career offender for sentencing guidelines 11:09:4  
10          purposes, and with a rap sheet that goes back to 1999 as an 11:09:4  
11          adult. And the Court can see from the pretrial services 11:09:5  
12          report, it goes back even further than that, actually, prior 11:09:5  
13          to him being an adult. It just is not unfair at all to 11:09:5  
14          characterize this defendant as a career offender. 11:10:2

15          On the offensive reasoning before the Court today, 11:10:3  
16          he ran from law enforcement that evening, and he evaded 11:10:3  
17          capture for nearly two months on state drug charges stemming 11:10:4  
18          from that event. His criminal record is riddled with 11:10:5  
19          offenses like failure to appear, he has several of those; 11:12:0  
20          refusal to identify himself to law enforcement; resisting 11:12:0  
21          arrest; and a number of show causes. 11:12:1

22          So in terms of not running from law enforcement, 11:12:1  
23          showing up to court, following the Court's orders, this 11:12:2  
24          defendant has shown over and over again consistently that he 11:12:3  
25          doesn't do so well with those things. And now he's facing 20 11:12:3

1 years in prison and career offender status, the government  
2 does not believe that that will increase the chances that he  
3 will show up for court and follow this Court's other orders,  
4 which, of course, as the Court knows, following the Court's  
5 orders is a key part of whether bond is appropriate under the  
6 Bail Reform Act of 1984.

7 As to danger to the community, of course, it's in  
8 the pretrial services report that the defendant has lived in  
9 this area his whole life, has lots of family and friends  
10 here, but the problem is that he's also been running afoul of  
11 the law in this community as an adult since 1999.

12 His convictions, in addition to the drug trafficking  
13 felonies, the numerous drug trafficking felonies, include  
14 assault and battery, and I would note that there is -- those  
15 are seven different offense dates, maybe two sentencing  
16 events for the seven drug felonies, but it is separate  
17 offense dates for each one. So we are now on drug dealing  
18 incident number eight here today.

19 In February 2013 the defendant was given a suspended  
20 sentence on five of the drug trafficking felonies. Less than  
21 a year later, January 2004, still on probation, still under a  
22 suspended sentence, he's arrested again for a drug  
23 trafficking felony. And despite the circumstances, he's let  
24 out on bond and a month later, in February 2004, now under  
25 probation, now under a suspended sentence and on bond, too,

1 he's arrested for another drug trafficking felony. This time 11:14:3  
2 when he's sentenced for those offenses in 2005, I believe the 11:14:3  
3 pretrial services report indicates that he got a total of six 11:14:4  
4 years in the state penitentiary. By my rough calculation, I 11:14:4  
5 guess that means he got out of the penitentiary in about 2012 11:14:5  
6 or 2011, and he is caught trafficking in crack cocaine again. 11:14:5  
7 Again we are on charge number eight. In February of 2014, 11:15:0  
8 the Court heard evidence today that one of the witnesses we 11:15:1  
9 have is able to place this defendant selling crack cocaine 11:15:1  
10 back into 2012. 11:15:2

11 So, in short, he is re-offending, and, of course, on 11:15:2  
12 this 2014 incident, this February 2014 incident, he runs from 11:15:3  
13 police and isn't apprehended for two months. When he was 11:15:3  
14 apprehended in April of '14, he was given bond, and the 11:15:4  
15 Government would point out that just as he had done every 11:15:4  
16 time before, in both the 2003 and the 2005 drug dealing 11:15:4  
17 arrests, he fails to live up to the bond that the state court 11:15:5  
18 placed him on. He's caught dealing crack cocaine again 11:15:5  
19 leading to his September 2015 arrest. 11:16:0

20 Now, if the years in the penitentiary didn't 11:16:0  
21 dissuade him from selling drugs, the prior bonds he was given 11:16:1  
22 obviously didn't dissuade him from selling drugs, and the 11:16:1  
23 Government is just very doubtful that any combination of bond 11:16:2  
24 conditions would dissuade him from continuing to sell drugs 11:16:2  
25 now. 11:16:2



1           He's shown through his own conduct consistently that 11:16:3  
2           when it comes to selling drugs, he is a consistent and 11:16:3  
3           ongoing danger to the community, and the Government would 11:16:3  
4           respectfully submit that there doesn't appear to be a reason 11:16:4  
5           that giving him a third chance today would bring about 11:16:4  
6           different results than in the past. I say a third chance 11:16:4  
7           based on the fact he was arrested in 2014, given a bond in 11:16:5  
8           2014, and he's found with crack again in 2015. 11:17:0

9           So he's already been given some chances before, and, 11:17:0  
10          of course, his prior incidents, as well, he's been caught 11:17:1  
11          selling drugs while out on bond. As the Court noted, the 11:17:1  
12          complaint does not represent everything the defendant could 11:17:2  
13          be charged with. As was indicated in the testimony today, of 11:17:2  
14          course, the trafficking of drugs goes as far back as 2012. 11:17:3  
15          He's been seen in possession of two kilograms of cocaine, as 11:17:3  
16          well as guns, as well as a picture of a gun on his phone, as 11:17:3  
17          well as large sums of cash consistent with what the 11:17:4  
18          cooperating witness told Detective Thomas. 11:17:4

19          And one other point of corroboration I would offer, 11:17:5  
20          while I'm thinking of it, on that cooperating witness, the 11:17:5  
21          Government elicited testimony from a Detective Thomas that 11:18:0  
22          this cooperating witness indicated that he not only was a 11:18:1  
23          drug user but that he became involved in selling crack 11:18:1  
24          cocaine with this defendant. He made statements against his 11:18:2  
25          penal interest, and I would submit to the Court that he was 11:18:2

1 quite forthcoming with the detective, and that does go to his 11:18:2  
2 credibility and that that weighs in his favor when it comes 11:18:3  
3 to his credibility. He is making statements against his 11:18:3  
4 penal interest and being open and honest with the detective. 11:18:4

5 The other thing I'll mention, and I believe it's 11:18:4  
6 mentioned in the affidavit anyway, after the August of 2015 11:18:5  
7 incident, the shooting incident, a personal friend of the 11:18:5  
8 defendant did tell police, yes, I'm a drug dealer. 11:19:1

9 I will end it this. The Government has what I 11:19:2  
10 believe is ten good reasons to detain this defendant: Number 11:19:3  
11 one, I would submit to the Court that the evidence is strong. 11:19:3  
12 We've got drugs on the table. This is not a historical case. 11:19:4  
13 Number two, we've got law enforcement witnesses on both the 11:19:4  
14 February of '14 and the August of '15 incident. Number 11:19:5  
15 three, we've got a presumption against bond. Number four, 11:19:5  
16 even if we didn't have the presumption, for the reasons the 11:20:0  
17 government has explained, this defendant poses a substantial 11:20:0  
18 risk of nonappearance and a danger to the community. Number 11:20:1  
19 five, he's an eight-time felon, seven of them drug 11:20:1  
20 trafficking felonies. Six, history of failure to appear. 11:20:2  
21 Seven, history of failing to abide by Court orders. Eight, 11:20:2  
22 history of breaching bond conditions. Nine, the probation is 11:20:3  
23 recommending detention. Ten, that probation did not find the 11:20:3  
24 two possible third-party custodians to be suitable. 11:20:3

25 And number eleven, I'll add, as the Court pointed 11:20:4

1 out, this is a defendant who at a minimum has drawn violence, 11:21:2  
2 and we believe on a drug-related incident in the 2015 -- in 11:21:2  
3 the August of 2015 instance or been involved in a 11:21:3  
4 drug-related shooting, the Government believes. We recognize 11:21:4  
5 it was on the victim side of things, but, still, it's 11:21:4  
6 generated violence. 11:21:5

7 So in summary, got a lot of past conduct with crime 11:21:5  
8 shows that this is the type of defendant who can't be trusted 11:22:0  
9 to abide by a Court's order, whether it's bond, whether it's 11:22:1  
10 probation, whether it's a suspended sentence, and for any of 11:22:1  
11 those reasons alone, but definitely for all of them combined, 11:22:2  
12 the Government would ask the Court to keep this defendant 11:22:2  
13 detained pending his trial. 11:22:2

14 THE COURT: All right. Thank you, Mr. Hudson. 11:22:3

15 MR. HUDSON: Yes, sir. 11:22:3

16 THE COURT: Ms. Katchmar, your turn. 11:22:3

17 MS. KATCHMAR: Thank you. Understanding that I may 11:22:3  
18 be swimming a little bit upstream, Your Honor, I still 11:22:3  
19 believe that we can put forth conditions or a combination of 11:22:4  
20 conditions that will reasonably assure his appearance and 11:22:5  
21 allay some of the Court's concerns regarding danger to the 11:22:5  
22 community. We understand that that is probably foremost the 11:23:0  
23 Court's concern along with the presumption. We would first 11:23:3  
24 note that the number of felonies that the Government alleges 11:23:4  
25 were not in eight separate instances but they were in 11:23:4

1 combined events where several charges were put forth. 11:23:4

2 So we actually have a 2002 to -- excuse me, 2003 -- 11:23:5  
3 that's right, 2003, 2001 and a 2005 event which leads to all 11:24:0  
4 of these events as it relates to drug-related convictions, 11:24:0  
5 Your Honor. 11:24:1

6 He is on supervision for at least, I believe all of 11:24:1  
7 those items still, based upon the pretrial report. Your 11:24:2  
8 Honor, he is, as the Court has pointed out, as you know, the 11:24:2  
9 defense will point out, that he is, in fact, presumed 11:24:2  
10 innocent constitutionally, that the presumption is a 11:24:3  
11 statutory creation by the Bail Reform Act, and that he is a 11:24:4  
12 lifelong resident of this area. 11:25:0

13 Not only does his mother live in the house where it 11:25:0  
14 was -- where she was deemed not to be an appropriate 11:25:2  
15 third-party custodian, based upon her criminal convictions, 11:25:2  
16 there is nothing indicating that she is failing to follow the 11:25:3  
17 rules of the Court or that she would refuse to follow the 11:25:3  
18 rules of this Court if she were a third-party custodian. And 11:25:3  
19 she is present in here today. 11:25:4

20 She also lives there with Teisha Goffigan, who I've 11:25:5  
21 already pointed out, the sister of Mr. Goffigan. She is -- I 11:25:5  
22 believe she works for an asphalt and concrete company as a 11:26:0  
23 foreperson, and she also actually is an R.N., if I'm not 11:26:1  
24 mistaken, registered nurse also but not by trade now. Their 11:26:2  
25 home is a family home. It's owned. It's in an area that can 11:26:2

1 be looked into. 11:26:3

2 What I would point out is that there is the shooting 11:26:3  
3 in August 2015, which we understand is of concern to the 11:26:3  
4 Court, that it drew violence, but we don't have anything 11:26:3  
5 before or after suggesting otherwise -- excuse me, suggesting 11:26:4  
6 this violence. We have a situation where he was at his home. 11:26:5  
7 He was easily found. 11:26:5

8 If the house had been searched and drugs and drug 11:27:0  
9 paraphernalia and drug trafficking items had been found in 11:27:0  
10 September -- on September 24th, 2015 when he had been 11:27:1  
11 arrested, I assure you that would be before the Court. It's 11:27:1  
12 not. 11:27:1

13 Your Honor, he has never been charged federally. I 11:27:2  
14 do believe federal is different. The penalties are 11:27:2  
15 different. People know you just can't run from the Federal 11:27:2  
16 Government. It's everywhere. 11:27:3

17 So I do believe that there are a series of 11:27:3  
18 conditions. He is not working, so there is no reason why he 11:27:4  
19 shouldn't be at his home at all times. The family is willing 11:27:4  
20 to do electronic monitoring and whatever other monitoring GPS 11:27:4  
21 that the Court deems appropriate. 11:27:4

22 He still needs medical care. He's, as the report 11:27:5  
23 indicates, he's still suffering side effects from that. He 11:27:5  
24 is still on probation. He would have to follow those terms 11:28:0  
25 and conditions along with the pretrial officer. There is no 11:28:0

1 substance abuse history. It sets that there was back way 11:28:1  
2 early up to 2000, but we are 16 years from that, so there is 11:28:2  
3 no history of that. 11:28:2

4 No mental health history whatsoever. So in terms of 11:28:3  
5 any of that, those services would not be needed. Would he 11:28:3  
6 have to go and look for a job, we would assert that is 11:28:4  
7 probably a good idea for him, but also seeking the medical 11:28:4  
8 care is also a good idea. 11:28:4

9 Your Honor, the family is here. There is nothing to 11:28:4  
10 show that they don't follow the terms and conditions. 11:28:5  
11 Mr. Goffigan is very aware, based upon his conversations with 11:28:5  
12 counsel and hearing Mr. Hudson, what potential consequences 11:28:5  
13 he could face and is potentially facing. But that alone is 11:29:0  
14 not enough to create a presumption that he should be 11:29:0  
15 incarcerated. We understand that the state kept him in 11:29:0  
16 custody but the state has different resources. 11:29:1

17 THE COURT: The presumption is created by statute. 11:29:1  
18 It's not created by the underlying facts. 11:29:1

19 MS. KATCHMAR: Understood. It's based upon the 11:29:2  
20 nature of the charge that he's facing and the potential 11:29:2  
21 penalty that he could face from that charge, and we 11:29:3  
22 understand that, Your Honor. But that alone, that 11:29:4  
23 presumption can be rebutted by reasonable, reliable 11:29:4  
24 information, even a scintilla of which the defense has 11:29:4  
25 presented. So we would assert that based upon the 11:30:0

1 information we have provided, that combination of conditions 11:30:0  
2 that could reasonably ascertain his appearance here in court, 11:30:0  
3 that we request the Court to release him on the GPS, on the 11:30:1  
4 home monitoring to the address where he's lived predominant 11:30:1  
5 and all of his life since 1980, and that any other terms and 11:30:2  
6 conditions the Court deems appropriate, he will such follow. 11:30:4  
7 Thank you. 11:30:4

8 THE COURT: Thank you, Ms. Katchmar. 11:30:4

9 All right. Well, as the Court has hopefully made 11:30:5  
10 clear, that the purpose of this proceeding is certainly not 11:30:5  
11 to adjudge guilt or innocence of the defendant, but, rather, 11:30:5  
12 to determine whether there is any condition or combination of 11:31:0  
13 conditions that the Court could impose that would assure his 11:31:0  
14 appearance at trial and protect the community. 11:31:0

15 The statute under which he was charged makes this a 11:31:1  
16 presumption case. By that it means that Congress has 11:31:1  
17 presumed that people charged with this statute should be 11:31:1  
18 detained because there are no conditions the Court can 11:31:2  
19 impose, but that presumption can be rebutted. 11:31:2

20 The defendant has proffered, to rebut that 11:31:2  
21 presumption, the fact that his criminal conviction history, 11:31:3  
22 let's just say is overstated because it involved less 11:31:3  
23 incidents that the Government, in their argument, has 11:31:4  
24 separated out. 11:31:4

25 They have proffered that the defendant abided, 11:31:4

1     theoretically, to an extent his probation. He didn't flee     11:31:5  
2     the jurisdiction when he was placed on probation in April of     11:31:5  
3     2014, although the Government notes that when he was arrested     11:32:0  
4     in 2015, it was because of drugs that were found on him     11:32:0  
5     following his incident where he had been shot.     11:32:1

6             The defendant has proffered conditions that could be     11:32:1  
7     imposed remanding him to his mother as third-party custodian     11:32:1  
8     in the home in which she lives with her daughter, the     11:32:2  
9     defendant's sister. The problem is probation has made it,     11:32:2  
10    not binding on the Court, but the probation has found that     11:32:3  
11    the defendant's mother would not be a suitable custodian and     11:32:3  
12    the home would not be a suitable location. And under these     11:32:4  
13    circumstances, the Court is compelled to find that the     11:32:4  
14    presumption has not been rebutted, that the nature of this     11:32:5  
15    offense and the meager assurances the Court can have that the     11:32:5  
16    defendant would abide by any conditions the Court could     11:33:0  
17    impose is just not sufficient to rebut the presumption.     11:33:0

18            In looking at the factors, these are very serious     11:33:1  
19    charges. The weight of the evidence is significant. The     11:33:1  
20    defendant's criminal record is, regardless of whether the     11:33:1  
21    convictions are aggravated or not, is extensive, and it     11:33:2  
22    involves similar offenses, and it involves offenses while the     11:33:2  
23    defendant was either on probation or otherwise on supervision     11:33:3  
24    or, in the case of the most recent ones, while he was on     11:33:3  
25    bond. There are a number of failures to appear. There are a     11:33:3



1 number of convictions for failure to be of good behavior. So 11:33:4  
2 that tells the Court the defendant is not likely to follow 11:33:4  
3 conditions or combinations of conditions. 11:33:4

4 Finally, because of the nature of these charges, the 11:33:4  
5 shooting that happened in August of this past year, the 11:33:5  
6 danger to the community posed by the defendant's release is 11:33:5  
7 substantial. So I'm going to grant the Government's motion 11:33:5  
8 for detention. I'm going to issue a written order outlining 11:34:0  
9 the basis therefor. And unless there is anything further -- 11:34:0

10 MR. HUDSON: There is one further thing, Your Honor. 11:34:2  
11 Ms. Katchmar and I have both signed an order for discovery. 11:34:3  
12 We would ask the Court to consider that and consider entering 11:34:4  
13 it. 11:34:4

14 MS. KATCHMAR: That is correct, Your Honor. Thank 11:34:4  
15 you. 11:34:4

16 THE COURT: All right. 11:34:5

17 MS. KATCHMAR: And nothing further from the 11:35:0  
18 defendant. 11:35:0

19 THE COURT: All right. The order has been signed by 11:35:0  
20 the parties, so I will enter that. 11:35:1

21 MR. HUDSON: Thank you, sir. 11:35:1

22 THE COURT: And as part of my order, I will also 11:35:2  
23 formalize the probable cause finding. All right. 11:35:3

24 MS. KATCHMAR: Thank you. 11:35:3

25 THE COURT: All right. Thank you, ladies and 11:35:3

gentlemen. The Court will stand in recess.

11:35:3

(Hearing adjourned at 11:12 a.m.)

11:35:3

CERTIFICATION

I certify that the foregoing is a correct transcript, to the best of my ability, of the court's audio recording of proceedings in the above-entitled matter.

X \_\_\_\_\_/s/ \_\_\_\_\_ x

Jody A. Stewart

X \_\_\_\_\_5-24-2016\_\_\_\_\_ x

Date